

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

APPLIED UNDERWRITERS, INC.,

Plaintiff,

vs.

TOP'S PERSONNEL, INC.,

Defendant.

8:15-CV-90

MEMORANDUM AND ORDER

This matter is before the Court on the Magistrate Judge's Findings and Recommendation (filing [34](#)) recommending that the Court deny the defendant's motion to dismiss (filing [27](#)).

Neither party has objected to the Magistrate Judge's recommendation. [Title 28 U.S.C. § 636\(b\)\(1\)](#) provides for de novo review of a Magistrate Judge's findings or recommendations only when a party objects to them. *Peretz v. United States*, 501 U.S. 923 (1991). Failure to object to a finding of fact in a Magistrate Judge's recommendation may be construed as a waiver of the right to object from the district court's order adopting the recommendation of the finding of fact. [NECivR 72.2\(f\)](#). And the failure to file an objection eliminates not only the need for de novo review, but any review by the Court. *Thomas v. Arn*, 474 U.S. 140 (1985); *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609 (8th Cir. 2009); *see also United States v. Meyer*, 439 F.3d 855, 858-59 (8th Cir. 2006).

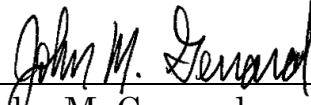
Accordingly, the Court will adopt the Magistrate Judge's recommendation that the defendant's motion to dismiss be denied.

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation (filing [34](#)) are adopted.
2. The defendant's motion to dismiss (filing [27](#)) is denied.
3. This matter is referred to the Magistrate Judge for case progression.

Dated this 16th day of June, 2016.

BY THE COURT:



John M. Gerrard
United States District Judge